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SB 26

OPPOSE

Following are some thoughts on the above legislation. This is not sound law making.

1. SB 26 sets up a system for seizing property rights. Even though some severed mineral rights have lost their identity or are old they are still a valid and possibly valuable interest in real estate. This bill smacks of a taking.
2. SB 26 proposes to set up a system to identify owners of severed mineral rights by filing with the DNRC. Records already exist in the county offices of Clerk and Recorder. Granted some of these require some extensive searching, but this is a practice that goes on continually by title companies, abstracters, and land agents for companies in the mineral or oil and gas business.
3. There is already in place statutes providing quieting title, and it is common place for this process to be used to clear up any blemishes on title to property. SB adds nothing to this that doesn't currently exist.
4. This bill is costly to landowners and to those who own severed interests by requiring fees for filing and fines for non-filing. This issue of the bill has to do with those lost mineral rights ownership, yet Section 7 sets for a hundred dollar fine for failure to file a notice. How can the Department fine someone they can not locate?
- 5 The bill sets up a whole new department within DNRC with substantial costs to the taxpayers. The accepted place where land records are kept is in the County Clerk and Records Office. It has been that way from the get go, and now people want to change all of that. So if DNRC says someone owns a mineral interest, and it is not in the county records, who is right? Is there a liability issue with the state? It is virtually impossible for DNRC to establish an accurate and complete record of mineral interests. Quite frankly the DNRC has their hands full trying to figure out water right ownerships.

6. Why does this bill not require the owners of the surface rights to declare their ownership of mineral rights?

7. Severing mineral rights is a common practice and in large part a viable part of estate planning. The surface owner is not entitled to a mineral interest that is owned by another party even if the reservation may have been made yeas ago. And twenty years, in reality, is a very short period of time.

8. Severed mineral rights do not necessarily hamper sales. They can but, quiet title , title searches, and disclosure minimize adverse effects on the transfer of property. Proposing the addition of declaring information on the Reality Transfer Certificate is not a good practice. The purpose of the RTC is to provide sale price data to the Department of Revenue and not to impose regulatory restrictions on the free transfer of property.